

## **REMARKS**

In the Office Action, the Examiner objected to claim 21 under 35 U.S.C. § 112, second paragraph, as being indefinite; rejected claims 1-5, 9-17, and 20-21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,032,262 to Zehnder in view of U.S. Patent No. 4,799,586 to White, Jr. ("White"); rejected claims 6-7 and 18-19 under 35 U.S.C. § 103(a) as being unpatentable over Zehnder in view of White and further in view of U.S. Patent No. 2,060,101 to Moody; rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Zehnder in view of White and further in view of U.S. Patent No. 6,499,770 to Glista et al. ("Glista"). Applicant respectfully traverses each of the rejections.

As a preliminary matter, based on the Examiner's remark on page 2 of the Office Action indicating that a "new Non-Final Rejection" is set forth, Applicant recognizes the Non-Final status of the Office Action mailed on June 22, 2005. (The Office Action Summary incorrectly identified the Office Action as a Final Office Action.)

Although Applicant does not necessarily agree with the rejection of claim 21 under 35 U.S.C. § 112, second paragraph, claim 21 has been amended to improve clarity of the claim language. Applicant respectfully requests withdrawal of the 35 U.S.C. § 112 rejection.

Applicant respectfully traverses the rejection of claims 1-5, 9-17, and 20-21 under 35 U.S.C. § 103(a) as being unpatentable over Zehnder in view of White because no *prima facie* case of obviousness has been established at least for the reason that neither Zehnder nor White, nor any combination thereof, discloses or suggests every claim element. For example, neither reference discloses or suggests at least a "flow de-

swirling section adapted to straighten the flow of fluid,” as recited in independent claims 1, 14 and 21.

As indicated in the Office Action, Zehnder fails to disclose structural details, including a flow de-swirling section. The Office Action cites White at Figs. 1-2; Col. 1, line 38 - 68; and Col. 2, lines 1-26 and 62-68; and Col. 3, lines 1-24 for the asserted disclosure of a de-swirling section, adapted to straighten the flow of fluid. However, those portions of White do not disclose or suggest any structure that would “straighten to flow of fluid.” None of the cited text in White discloses or suggests either de-swirling or straightening the flow. The cited text in White merely discloses a design that attempts to limit the formation of turbulence by maintaining a laminar flow. Attempting to limit the separation, and the resulting turbulence, of a flow is not equivalent to straightening the flow.

Similarly, neither reference discloses or suggests at least a “de-swirling means for removing a swirl from the flow of fluid,” as recited in independent claim 20. White fails to discloses or suggest “removing a swirl from the flow of fluid,” because attempting to limit the formation of a turbulence is not equivalent to removing a swirl.

For at least this reason, the § 103 rejection of independent claims 1, 14 and 20-21 should be withdrawn. Claims 2-5, 9-13, and 15-17 each depend from one of independent claims 1 and 14, and as such are allowable at least for their dependency on an allowable claim.

Applicants respectfully traverse the rejection of claims 6-7 and 18-19 under 35 U.S.C. § 103(a) over Zehnder in view of White and further in view of Moody. No

*prima facie* case of obviousness has been established with respect to claims 6-7 and 18-19 at least because there is no motivation to combine Zehnder, White, and Moody.

Zehnder and White are each broadly related to fluid flow in the intake system of an internal combustion engine. Moody, however, discloses a spillway for a power generation turbine in a dam. One of ordinary skill in the art would not look to dam spillway design to modify an intake system for series compression in an internal combustion engine. Hydroelectric dams and internal combustion intake systems are simply too distinct. The characteristics of a flow of water under tremendous pressure and with tremendous velocity in an enormous hydroelectric dam would not have been considered for the intake system of an internal combustion engine.

For at least this reason, the § 103 rejection of claims 6-7 and 18-19 should be withdrawn.

Applicants respectfully traverse the rejection of claim 8 under 35 U.S.C. § 103(a) over Zehnder in view of White and further in view of Glista. No *prima facie* case of obviousness has been established at least because neither Zehnder, White, nor Glista, nor any combination thereof, discloses or suggests every claim element. As discussed above, independent claim 1 is allowable because Zehnder and White fail to disclose or suggest at least a “flow de-swirling section adapted to straighten the flow of fluid.” Glista does not correct this deficiency and is not relied on in the Office Action for this element. Claim 8 is, therefore, allowable at least for its dependency on claim 1. For at least this reason, the § 103 rejection of claim 8 should be withdrawn.

**Conclusion**

Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: 

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